

FACT SHEET

Americans with Disabilities Act - Title III design and construction requirements affecting places of public accommodation (Public Law 101-336)

What buildings and facilities are covered by the design requirements of Title III of the Americans with Disabilities Act (ADA)?

The design requirements of Title III of the ADA affect "places of public accommodation" and "commercial facilities" (see accompanying fact sheet describing places of public accommodation and commercial facilities).

What are the design requirements for new construction?

New construction is defined as the design or construction of a facility for first occupancy.

All construction of places of public accommodation and commercial facilities for first occupancy after January 26, 1993 must be accessible to and usable by individuals with disabilities.

A newly constructed facility must be accessible for first occupancy if 1) the last application for a building permit or permit extension for the facility is certified to be complete or received by a state or county government after January 26, 1992, and 2) if the first certificate of occupancy for the facility is issued after January 26, 1993.

A facility may be exempted from this requirement if it can demonstrate that it is structurally impracticable to comply.

What are the design requirements for alterations?

An alteration is a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part thereof.

Examples include additions, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full partitions. It does not include normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems unless they affect the usability of the building or facility.

Any alteration to a place of public accommodation or a commercial facility after January 26, 1992, must be made so as to ensure that to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities. An alteration is deemed to be undertaken after January 26, 1992 if the physical alteration begins after that date.

If the alteration affects or could affect the usability of or access to an area of a facility that contains a primary function, the path of travel to the altered areas and the restrooms, telephones

and drinking fountains serving the altered area should, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities. In no case, however, will an entity be required to spend more than twenty (20) percent of the total cost of altering the primary function area to provide such an accessible path. If it would cost more than twenty percent of the total cost to do so, then only an amount equal to twenty percent of the intended alteration has to be spent.

Is there an elevator exemption?

Yes. The installation of an elevator is not required for either new construction or alterations in facilities that are less than three stories or have less than 3,000 square feet per floor, unless it houses a shopping center, a shopping mall, a professional office of a health care provider, a terminal, depot or other station used for specified public transportation, or an airport passenger terminal.

What are the requirements for historic structures?

A qualified historic building or facility is one that is either listed, or eligible for listing, in the national Register of Historic Places, or one that is designated as historic under state or local law.

If making the altered portion of a "qualified historic building" readily accessible would threaten or destroy the historic significance of that building or facility certain alternative minimum accessibility standards may instead be applied. In some instances, it will still not be possible to achieve compliance with the alternative accessibility requirements without destroying the historic significance of the building. Specific procedures and consultation with the appropriate "preservation officer(s)" at the state or Federal level are necessary to determine the exemptions.

Are there specific design guidelines?

The ADA Design Guidelines, published by the U.S. Architectural and Transportation Barriers Compliance Board in the Federal Register on July 26, 1991, are the guidelines which all new construction and alterations must meet. These design guidelines are DIFFERENT from the Uniform Federal Accessibility Standards and the local building codes. The guidelines give specific design and scoping requirements and also provide guidance on how to apply the design guidelines.

Does this law replace existing local building codes?

The ADA accessibility requirements do not supplant or replace state or local laws that impose higher accessibility standards. The governing principal to follow when Federal, state, or local codes differ is that the more stringent requirements apply.

Who enforces the Americans with Disabilities Act?

The U.S. Attorney General will enforce the ADA upon the filing of a complaint by an individual. Individuals may also file private lawsuits with the courts having jurisdiction.

Is there a pre-construction approval process?

No. However, technical assistance by fax or written consultation and workshops are provided by the Disability and Communication Access Board.

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ADA-3

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